



Peru

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Peru is a multiparty republic that recently emerged from a decade of authoritarian government and is undergoing a process of democratic transformation. In November 2000, President Valentin Paniagua took power and led a transition government after then-President Alberto Fujimori resigned and was dismissed from office. The Government held elections in April and June 2001, which observers considered to be generally free and fair. Alejandro Toledo of the Peru Posible party won the presidential runoff election with approximately 53 percent of the vote and was inaugurated in July 2001. The Constitution provides for an independent judiciary; however, the judiciary widely was considered corrupt and was subject to pressure from the executive over controversial decisions favoring members of the Fujimori government. The Government continued judicial reform efforts.

The Peruvian National Police (PNP) and the military shared responsibility for internal security; they were under effective civilian control. Members of the security forces committed some serious human rights abuses.

Over the last decade, the Government transformed a heavily regulated economy into a market-oriented one. The country's population was approximately 27 million. Gross domestic product grew 4.8 percent during the year, compared with only 0.2 percent growth in 2001. Inflation, which was 0.1 percent in 2001, stayed under 1.5 percent during the year. Major exports include copper, gold, and other minerals, fishmeal, textiles, and agricultural products. Close to 54 percent of the population lived in poverty, earning less than \$1.25 per day; about 15 percent of the population lived in extreme poverty, unable to meet the most basic food, shelter, and clothing requirements.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were allegations of unlawful or unwarranted killings by police, and one military recruit died as a result of abuse by superior officers. Police tortured, beat, and otherwise abused detainees. Prison security forces abused inmates.

Torture and abuse of military recruits continued. Impunity remained a problem, and security forces sometimes harassed victims or other witnesses to keep them from filing charges. Overall prison conditions remained poor and were extremely harsh in maximum-security facilities. There continued to be reports of arbitrary arrest and detention. Pretrial detention continued to be prolonged, and trials were frequently subject to inordinate delays. Despite extensive changes to reduce executive dominance over the judiciary, problems persisted, including the general inefficiency of the system.

Press freedom improved and greater public attention was focused on the need for a free press, although strong suspicions remained of isolated attempts by the Government to influence the media by threats of legal or judicial action. Violence and discrimination against women continued. Violence against children and discrimination against persons with disabilities, indigenous people, and racial and ethnic minorities remained problems. Labor advocates argued that labor laws and practices restricted freedom of association and collective bargaining rights, but a December law addressed some of these problems. Child labor remained a serious problem in the informal sector. Peru was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

The terrorist organization Shining Path (Sendero Luminoso) was responsible for killings and other abuses.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of politically motivated killings by government agents. There were a few allegations of unlawful or unwarranted killings by police. One military recruit died after being tortured by superior officers.

In April police detained Andy Williams Garces during a police surveillance operation in Piura. One officer allegedly shot Garces, who fell into a river. Police claimed that Garces jumped into the river, swam to the other side, and escaped. An investigation began, but no charges have been filed, as Garces' body was not found.

On July 2, three members of a Lima municipal patrol unit and one PNP officer detained Jose Reina Rincon, a bullfighter from Spain. Two of the municipal guards beat Reina to death, and the four men then dumped Reina's body at a beach near Lima. The authorities charged two of the municipal guards with homicide and one guard along with the PNP officer as accomplices. The investigation continued at year's end.

In October a prosecutor in Arequipa accused 24 police officers with killing 2 persons, Fernando Talavera Soto and Edgar Pinto Quintanilla, who died after being hit with teargas canisters during the Arequipa protest (see Section 2.b.). The authorities charged the officers with negligent homicide; at year's end, no trial had begun.

According to the Human Rights Commission (COMISEDH)—a nongovernmental organization (NGO)—and a congressional subcommittee looking into killings, torture, and mistreatment of young soldiers, there was one report of a military recruit killed in Iquitos after being tortured. An autopsy revealed that Pitter Rengifo Vasquez was severely beaten before being killed allegedly by superior officers in June.

On September 17, a Cajamarca department mayor and candidate for reelection, Joselito Fernandez Perez, was murdered. Fernandez Perez was part of the National Unity ticket, a nationwide, center-right umbrella group headed by 2006 presidential hopeful Lourdes Flores. Flores and other National Unity leaders claimed the murder was politically motivated, particularly as two other National Unity activists were shot in the same locality. Police arrested rival mayoral candidate Jose Fernandez Cabana, an independent, in connection with the murder. This appeared to be an isolated incident of election-related violence; an investigation was underway at year's end.

For the first time, in August a court sentenced officials for human rights crimes. In the case of the killing in 2000 of Alejandro Damian Trujillo Llontop, the court sentenced PNP Lieutenant Cesar Gomez Cassani and six other officers to 8 to 10 years in prison for human rights violations related to disappearance, torture, and murder. In early 2001, the officers were tried for Trujillo's murder, but a judge determined that errors occurred during the deposition process and subsequently released them. The prosecutor later brought charges against the policemen for the human rights crime of forced disappearance (see Section 1.e.).

In August the Supreme Court ruled that jurisdiction over 15 military commandos who led the 1997 hostage rescue operation at the Japanese ambassador's residence rested with the military court system. The Supreme Court supported its decision to send the case to the military court saying that the mission was carried out under a presidential order during a state of emergency. The Court ruled that four others—former Intelligence Service Director Vladimiro Montesinos, former Armed Services Chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio—were subject to civilian criminal court jurisdiction. The ruling came after an investigation into reports that the military executed Tupac Amaru Revolutionary Movement (MRTA) rebels in the aftermath of the rescue operation. At issue was whether the officers followed an order to kill any MRTA survivors, allegedly given by Montesinos and authorized by former President Alberto Fujimori. At year's end, the trials were pending.

There were no developments in the cases of Juan Carlos Campos Valentin and Graciano Rufino Martinez, who escaped from Challapalca prison and were subsequently killed by prison officers in February 2001.

In February an investigation by the prosecutor's office in San Juan de Lurigancho discounted accusations of torture and homicide and determined that inmate Felipe Davila Gamarra died as a result of injuries he received during a fight with other inmates in February 2001. The case was closed.

Initial trial proceedings were underway in civilian court against four police officers and a military lieutenant in the May 2001 case of Jenard Lee Rivera San Roque, who died after being detained and allegedly tortured and beaten. Amnesty International stated that the police attempted to prevent Rivera's family and neighbors from bringing to justice the officers responsible for his torture and death. COMISEDH had asked that the trial not be assigned to a military court.

There was no new information in the June 2001 case of Nazario Victor Valencia Porras, who died after police took him to the Matucana police station as a robbery suspect.

When charges were dropped after the prosecutor's office in Tacna accused six National Prison Institute (INPE) officers of killing Guillermo Navarro Rospigliosi in August 2001, COMISEDH objected to the dismissal of charges, and an investigation was underway at year's end.

Initial trial proceedings were underway against two police officers and a taxi driver for the crimes of torture and grave injuries followed by death in the killing of Cesar Augusto Ayauca Arguedes in August 2001. COMISEDH appealed to have the officers detained during the trial, but the decision from the appeals court was pending.

In December 2001, a judge sentenced PNP officer Idelso Murrugarra Casimiro to 4 years in prison and fined him \$860 (3,000 soles) for beating and killing Carlos Lopez Flores.

In the case of Mario Clemente Guillen Mendez, a court in Chinchá acquitted five police officers in December 2000; they were accused of torture that led to his death. The victim's family filed an appeal, and the case went to the Supreme Court in January 2001.

Military service was no longer mandatory, but mistreatment of military recruits continued to be a problem (see Section 1.c.). Initial trial proceedings began regarding the case of recruit Ronald Enrique Pena Garcia, killed in 2001. An air force lieutenant and two noncommissioned officers were under investigation for homicide. There were no developments in the cases of Percy Cusiualpa Franco and Isaias Yanac Rodriguez, two military recruits who died in 2001 under suspicious circumstances.

Initial trial proceedings continued in the case of Juan Carlos Aliaga Mera, a former crewmember in President Fujimori's presidential plane who was found dead in the Callao Air Group 8 Complex. His body had a bullet wound in the head and, according to the family, showed signs of brutal torture.

Initial trial proceedings began during the year against two police officers for the crime of torture, among other charges, of Nelson Diaz Marcos, who died after police in Tacna arrested him on charges of public intoxication in 2000.

After an investigation and exhumation of the body in the case of recruit Jose Luis Poma Payano, the prosecutor charged three air force officers with homicide for his 2000 death. In June initial court proceedings began, and a trial was underway. COMISEDH issued an appeal because the prosecutor was not trying the officers for the crime of torture. No decision had been reached on the appeal by year's end.

The authorities closed the case of Marino Fernandez Sanchez, who died in 2000 after allegedly having been tortured by military officials, as the cause of death was determined to be a severe case of malnutrition.

In August 2001, Congress voted unanimously to remove former President Fujimori's immunity from prosecution as a former head of state. In September 2001, Fujimori was indicted on charges of murder, causing grave injuries, and responsibility for persons who disappeared in relation to the La Cantuta and Barrios Altos killings (see Section 1.b.). Both events were attributed to the La Colina death squad, allegedly formed by members of army intelligence. Fujimori remained in his parents' native Japan, where he fled in 2000. As a Japanese citizen, he was protected from extradition. The Government continued to pursue a diplomatic solution in order to return Fujimori to be tried in court.

The Government continued in its efforts to arrest members of the La Colina group. On November 18, the PNP arrested former Army death squad leader Santiago Martin Rivas in Lima. Rivas led the La Colina death squad that operated against suspected terrorists during the Fujimori regime and was believed responsible for at least 25 killings, including the murders of 9 students and a professor at La Cantuta University in 1992 and 15 persons in the Barrios Altos section of Lima in 1991. Rivas had eluded capture since 2001 when the Inter-American Human Rights Court overturned Fujimori's commutation of a 20-year sentence handed down in 1995 for the La Cantuta killings. At year's end, initial trial proceedings were underway. The authorities arrested two other La Colina members during the year.

In April the Government paid almost \$3 million (10.5 million soles) in reparations to families of the Barrios Altos victims, in compliance with a ruling by the Inter-American Commission on Human Rights (IACHR).

In December the Inter-American Court of Human Rights ruled that the Government must investigate, try, and sanction those responsible for the 1986 massacre of inmates at El Fronton jail. In October the Supreme Council of Military Justice had upheld the exoneration of members of the military who ended terrorist-instigated riots in three prisons at a cost of over 200 lives. The El Fronton case was brought to the Inter-American Court by relatives of two dead inmates who later were found innocent of the terrorism charges on which they had been jailed.

In November 2001, the Ombudsman turned over to the Truth and Reconciliation Commission evidence of human remains in 51 mass graves, more than half of which were located in the Ayacucho area. During the year, the commission observed the Public Ministry's exhumations of two common graves near Ayacucho as part of its investigation into the political violence between 1980-2000 (see Section 4). The exhumations served to identify victims, return victims' remains to their families, and search for clues to identify those responsible for the killings. On December 7, the commission issued its first official report, which detailed a massacre where soldiers allegedly tortured and killed eight peasants in Chuschi, near Ayacucho, on May 17, 1980. The report was turned over to the Attorney General for further action.

Sendero Luminoso terrorists killed 11 persons during the year in the course of 154 acts of violence. There were two significant bombings, both attributed to Sendero Luminoso. On March 20, terrorists detonated a car bomb in a Lima suburb that killed 10 persons and injured 38. Earlier the same day, alleged terrorists detonated a bomb at a branch office of the Spanish-owned Telefonica company in downtown Lima; no injuries were reported and the facility received only minor damage. Police arrested eight Sendero Luminoso terrorists in relation to the car bombing.

In January members of the native Aguaruna community attacked settlers living on land claimed by the Aguaruna. A court order

required the settlers to vacate the land in the northern area of Cajamarca, but the order was not enforced and the settlers returned. The indigenous group killed 35 settlers, including men, women, and children, and injured dozens in the ambush.

b. Disappearance

There were no reports of politically motivated disappearances.

In May the Ombudsman's office reported that there were 6,089 cases of forced disappearance between 1980 and 2000, which were among the human rights abuses under investigation by the Truth and Reconciliation Commission (see Section 4). The Ombudsman's office noted that the Sendero Luminoso or Tupac Amaru rebels abducted the majority of the victims, mainly indigenous peasants.

Few members of the security forces were accountable for their role in disappearances, and impunity remained a problem.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution and the law prohibit torture and inhuman or humiliating treatment; however, in practice torture and brutal treatment by the security forces continued to occur. Abuse of individuals in police custody and inmates in prison by security forces continued to be a problem, as did torture and abuse of military recruits. Impunity was a problem, and the authorities who committed such abuses seldom were held responsible. A June Amnesty International report on torture called on the authorities to take decisive action to eradicate torture and to correct the problem of impunity.

Torture most often took place immediately following arrest. Torture was common during police detention when families were prohibited from visiting suspects being held incommunicado, and when attorneys had only limited access to them (see Section 1.d.). During the year, there were two cases of suspects dying following torture or beatings by security officials (see Section 1.a.).

In some cases, the police and security forces threatened or harassed victims, their relatives, and witnesses in an attempt to keep them from filing charges of human rights violations. According to Amnesty International and COMISEDH, several victims were too frightened to follow through with judicial proceedings against their abusers, who subsequently were released without being charged. COMISEDH reported 8 cases of aggravated torture by security forces, compared with 36 in 2001 and 35 in 2000.

In past years, abuse was particularly common in police cells operated by the National Counterterrorism Directorate (DIRCOTE) and in detention facilities on military bases, where terrorism and treason suspects normally were held. Psychological torture and abuse, which resulted from the harsh conditions in which detainees were held, were more characteristic of the prisons.

On January 12, 20 police officers from the Cotabambas Police Station tortured Renzo Vega Hidalgo. The police had arrested several youths living in a poor settlement called "La Casona." Vega, who was 19 years of age, resisted arrest and was beaten with a stick. He lost an eye during the beating. An investigation was underway.

On August 24, police officers in Callao arrested Omar de la Cruz for alleged involvement in a robbery. After giving his statement, several police tortured him using rubber batons. Family members reported to COMISEDH that de la Cruz had injuries on his head and neck and a burn on his waist. An investigation was underway at year's end. COMISEDH reported that the victim's family refused legal assistance due to fear of retaliation.

In November police in Chacabayo detained Jair Martin Rodriguez and his brother after a series of fights in their home and in the neighborhood. Six police officers allegedly beat Rodriguez when he resisted being put into a cell. Rodriguez required surgery to repair damage to a finger. At year's end, an investigation had begun.

There were no updates in the May 2001 case of inmate Teobaldo Pozo Tupayachi, beaten at the Quencoro prison.

There were no new developments in torture cases from 1999 and 2000 involving the following victims: Catalino Daga Ruiz, Bernardo Daga Ruiz, Mario Jimenez Roque; Julio Armando Uribe, and Victor Valle Cabello. No further investigations into these cases were expected.

Amnesty International reported that in the 1999 case of torture and subsequent death of Moises Paco Mayhua, a judge in Puno ruled that there was evidence of torture. The two police officers allegedly implicated in the torture and murder were still on active duty in another district. Judicial hearings had begun, although the two police officers had not yet appeared before the court.

In the case of Amador Carmen Canchaparan, whom military officials arrested and allegedly tortured on a military base in 2000, COMISEDH reported that a criminal court was expected to try army Major Max Espinoza Sanchez for abuse of authority.

The Legal Defense Institute reported that in the case of the 1998 torture of Raul Teobaldo by five naval officers, only one officer appeared for the trial in Ucayali. He was sentenced to 6 years in prison for abusing Teobaldo but appealed his sentence to the Supreme Court in Lima where all charges against him were dropped. At year's end, arrest warrants were outstanding against the remaining four officers.

There were no developments in the case of journalist Fabian Salazar during the year. The IACHR accepted the case in 2001.

In September 2001, the Government acknowledged the infringement of the rights of military intelligence officer Leonor La Rosa by four of her colleagues who beat and tortured her in 1997. The Government awarded her financial compensation in 2001. During the year, one congressman and several military officials questioned La Rosa's claim that her physical impairments (she is confined to a wheelchair) occurred as the result of torture. In October two retired military officers, accused by La Rosa of torturing her in 1997, were released from prison after submitting writs of habeas corpus through the civilian court.

As in previous years, NGOs and the Human Rights Ombudsman received complaints that the military beat or otherwise mistreated some members of the military service. Mistreatment of military recruits continued to be a problem. There were five reported incidents of torture of military recruits, one of which resulted in death (see Section 1.a.). At year's end, a congressional subcommittee continued to look into killings, torture, and mistreatment of young soldiers.

In January in Andahuaylas, a superior officer allegedly beat Freddy Cardenas Maucaylle in punishment for poor performance during a firing range exercise. Cardenas lost the use of his hand as a result of the beating, but chose not to make a formal accusation against the superior officer.

In July three superior officers allegedly drugged and sexually assaulted soldier Rolando Quispe Berrocal in an Ayacucho barracks. The authorities held the accused officers in a military prison and charged them with torture; a trial in civil court was pending at year's end. In August a military court gave a 30-day suspended sentence in solitary confinement to Quispe Berrocal and ordered him to pay \$430 (1,500 soles) in damages to the State and the military for making false statements. Human rights advocates disputed the court's ruling and accused military officers with obstruction of justice in this case.

In August superior officers allegedly raped recruit Edison Huamacto Marivas. Although an investigation was underway in Lima, the victim decided to drop the charges in order to avoid further press attention and to forget what happened. The perpetrators were not identified.

In October in Piura, a superior officer allegedly kicked and beat soldier Noe Moises Canales Salazar until he was unconscious after finding him sleeping during guard duty. Canales suffered severe internal injuries as a result of the beating and underwent two surgeries. At year's end, the case was pending and to be tried in civilian court.

The authorities concluded an investigation in the 2001 case of Frank Alfredo Romero Arrieta, a military recruit who was beaten by officers and left with serious spinal cord damage and unable to walk normally, and charged five officers with torture. Although initial trial proceedings had begun, a military court opened a parallel trial during the year, charging the officers only with abuse of authority. COMISEDH appealed to the judge in charge of the proceedings to deny venue to the military judge.

Citizens at times took the law into their own hands, meting out severe physical punishment to persons committing offenses such as robbery, burglary, rape, and child molestation.

Conditions were poor to extremely harsh in all prison facilities. About one-half of all prisoners were in facilities where the National Police had both internal and external control; the other half were in facilities under internal control of National Prison Institute guards and under external control by the police. Conditions were especially harsh in maximum-security facilities located at high altitudes. Low budgets, severe overcrowding, lack of sanitation, and poor nutrition and health care were serious problems. Prison guards and fellow inmates routinely victimized prisoners.

There were no reports of security forces killing inmates during the year. Human rights observers who monitored prison activity reported that torture and ill treatment of prisoners by security forces occurred during the year. Corruption was a serious problem among poorly paid prison guards, many of whom engaged in sexual abuse, blackmail, extortion, narcotics trafficking, and the acceptance of bribes in exchange for favors that ranged from providing a mattress to arranging an escape. Since prison authorities did not supply adequate bedding and budgeted only about \$0.79 (2.75 soles) per prisoner per day for food, the families of prisoners typically had to provide for these basic needs.

Overcrowding and inadequate infrastructure hampered efforts to improve prison living conditions. The 81 prisons and detention facilities held 28,403 prisoners as of December. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 7,000 prisoners lived in a facility built to accommodate 1,500. Inmates in all prisons had only intermittent access to running water; bathing facilities were inadequate; kitchen facilities remained generally unhygienic; and prisoners slept in hallways and common areas due to lack of cell space. Illegal drugs were abundant in many prisons, and tuberculosis and HIV/AIDS were reportedly at near-epidemic levels.

As of December, approximately 69 percent of all prisoners had not been sentenced (see Section 1.d.). Pretrial detainees were

held together with convicted prisoners in most cases. Detainees held temporarily while awaiting arraignment in Lima were not provided with food. This temporary detention period lasted from a few hours up to 3 days. The detainees were not allowed outside for fresh air and had restricted access to bathrooms.

The International Committee of the Red Cross (ICRC) reported a shortage of trained medical personnel, unreliable and insufficient legal representation for prisoners, an insufficient number of social workers and psychologists, and a general lack of organization in prison administration.

According to human rights monitors, the Challapalca prison in Tarata, Tacna, seriously violated international norms and standards, particularly as a result of its isolation and high altitude. Located at 14,000 feet, Challapalca's freezing temperatures and oxygen-thin air had unavoidably detrimental effects on prisoner health. The prison could be reached only after an all-night bus ride from the nearest population center, limiting inmates' contact with family. To relieve some of the isolation, the ICRC funded periodic visits by families. Hospital care was 6 to 8 hours away, depending on road conditions, by overland transportation. Face-to-face consultations by inmates with their attorneys were rare. Isolation or punishment cells in this prison were extremely small and sometimes held two prisoners at a time. Despite continued pressure from national and international human rights groups, Challapalca remained in operation.

There were two serious hunger strikes in prisons during the year. Roughly 900 prisoners held on terrorism and treason charges in various facilities throughout the country staged a hunger strike from February 11 to March 13. Church officials managed to convince the prisoners to call off the strike. Human rights observers charged that the Government was slow to react in sending in medical personnel to attend to the prisoners as the strike progressed. In July a second hunger strike by nearly 90 percent of inmates in the Lurigancho prison protested harsh prison conditions and sentencing delays; it lasted 1 week. There were minor protests in various prisons throughout the year, but fewer in number than in the previous year. Two inmates were killed and 41 were injured during a violent confrontation between several cellblocks of armed inmates at Lurigancho prison in December. An investigation was pending at year's end.

Male and female prisoners were housed separately. In high-security prisons, female inmates were allowed to see their children once a week. In women's prisons, children 3 years of age and younger lived with their jailed mothers. There were also separate juvenile facilities, in which conditions were not as harsh as those in adult prisons.

The Government permitted prison visits by independent human rights observers, including the ICRC. Members of the Ombudsman's office were allowed to visit the naval facility in Callao for the first time in December 2000 and continued to visit it during the year (see Section 4). As of October, the ICRC made 140 visits to inmates in prisons, detention facilities, and juvenile detention facilities.

d. Arbitrary Arrest, Detention, or Exile

There continued to be reports of arbitrary arrest and detention. The Constitution, Criminal Code, and antiterrorist statutes delineate the arrest and detention process. The Constitution requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. However, the Organic Law of the National Police permits the police to detain a person for any investigative purpose. Although the authorities must arraign arrested persons within 24 hours, they occasionally violated this requirement. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, this must be accomplished as soon as practicable. However, the authorities sometimes disregarded this requirement. Police abuse of detainees was a problem, and the abuse usually took place at the police station just after the arrest, while the detainee was held *incommunicado* (see Section 1.c.). A 2000 law allows the authorities to detain suspects in investigations for corruption for up to 15 days without arraignment. The law also permits the authorities to prohibit suspects under investigation for corruption from traveling abroad.

Detainees have the right to a prompt judicial determination of the legality of their detention and adjudication of habeas corpus petitions. In the past, judges denied most requests for such hearings. During the year, about 400 prisoners accused of treason related to terrorism offenses filed petitions for habeas corpus. They argued that they were convicted by hooded or "faceless" military courts and requested new trials in civilian court. Judges accepted a few petitions and ordered that prisoners be retried in civilian court, such as in the case of Maritza Garrido Lecca, who was arrested along with Sendero Luminoso leader Abimael Guzman. The prisoners' demands were based on Inter-American Court and Constitutional Tribunal rulings that sentences imposed by the military courts under the 1979 Constitution were illegal. However, such sentences imposed in cases brought after the 1993 Constitution was adopted remain valid (see Section 1.e.).

Police may detain terrorism and treason suspects for a maximum of 15 days and hold them *incommunicado* for the first 10 days. Treason suspects, who are handed over automatically to military jurisdiction, may be held *incommunicado* for an additional 30 days. When suspects were held *incommunicado*, attorneys had access to them only during the preparation and the giving of sworn statements to the prosecutor.

Many detention orders remained pending against roughly 4,000 persons allegedly forced to join terrorist groups; however, in May 2001, Congress passed a law that allowed the detention orders to be changed to summonses to appear in court if requested by the person named in the order. Legal experts and NGOs reported that the law was not effective, and fewer than 50 individuals had appeared before the court to make the request, reportedly because they were distrustful of the judicial process and feared arrest.

As of December, approximately 31 percent of a total prison population of 28,403 were sentenced, according to INPE statistics. About 50 percent of the prison population remained incarcerated in Lima; of these, 56 percent had been convicted but remained unsentenced. The IACHR and the U.N. Commission on Human Rights expressed concern about the large number of unsentenced prisoners. There was no progress during the year to reduce lengthy sentencing delays.

According to the INPE, the elapsed time between arrest and trial in civil, criminal, and terrorism cases averaged between 26 and 36 months, during which time suspects remained in detention. Those tried by military courts on treason charges generally did not have to wait more than 40 days for their trial; however, as trial procedures in military courts lacked full due process protections, the speed with which trials were conducted offered little benefit to the defendants. Once trials concluded, prisoners often had to wait long periods before being sentenced.

Many individuals associated with the Fujimori administration were the targets of criminal investigations. Anticorruption legislation enacted in 2000 gave judicial authorities expanded powers to detain witnesses and suspects. Many of those detained under these laws complained that the cases against them were politically motivated.

The Constitution does not permit forced exile, and the Government did not use it in practice.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, as an institution, the judiciary was still recovering from the effects of 8 years (1992-2000) of intensive manipulation by the executive branch under the Fujimori administration. The judiciary was seen widely as the most corrupt institution in the country. It operated independently of the executive, although President Toledo expressed strong concerns about judicial decisions dismissing charges of human rights violations and corruption against members of the former Fujimori government. Judicial reform continued to be a priority of the Government.

The 4-tier court structure consisted of lower and superior courts, a Supreme Court of 30 judges, and a Constitutional Tribunal of 7 members. In 2000 Congress restored the powers of the independent National Magistrates Council (CNM) to appoint, discipline, and evaluate all judges and prosecutors who have served in their position for 7 years or more. Failure to be certified disqualified a judge or prosecutor from ever working in that capacity again. Several of the more than 100 judicial officials failing to gain certification filed complaints with the IACHR that this certification process was unfair.

Under former President Fujimori, the executive branch pressured provisional judges and prosecutors, as their employment contracts could be cancelled without cause. Subsequent investigations showed that former intelligence advisor Montesinos improperly influenced numerous judges. The majority of implicated officials either resigned or were suspended; at year's end, some were being prosecuted.

The justice system was based on the Napoleonic Code. In civilian courts, criminal cases moved through three distinct phases. First, a prosecutor investigated cases and submitted an opinion to a first instance judge, who determined whether there was sufficient evidence to open legal proceedings. If there was, the judge conducted an investigation and, in over 90 percent of cases, determined facts, guilt or innocence, and issued a sentence. In some cases, particularly those involving violence or public officials, the law requires that the first instance judge pass the results of the investigation to the superior court for an oral trial before a three-judge panel. Anyone convicted and sentenced by a first instance judge may appeal to the Superior Court up to the Supreme Court. All defendants had the right to be present at their trial. Defendants also had the right to counsel, although the public defender system often failed to provide indigent defendants with qualified attorneys.

There was a presumption of innocence, defendants could call witnesses, and there was a system of bail. Attorneys had unimpeded access to their clients.

Under the military justice system, judges in the lower courts had the power to sentence and were required to pass judgment within 10 days of a trial's opening. Defendants could then appeal their convictions to the Superior Military Council, which had 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within 5 days. At the Superior Military Council and Supreme Council levels, a significant number of judges were active-duty officers with little or no professional legal training.

When it resumed its mandate in 2000, one of the first acts of the Constitutional Tribunal was to remove jurisdiction over civilians accused of terrorism from military courts. By 2001 civilian courts were processing the cases of 152 of the approximately 600 civilians tried in military courts under the aggravated terrorism law, which equates terrorism with treason. Human rights groups and legal experts charged that vaguely worded definitions in the antiterrorism statutes often led judges to issue sentences disproportionate to the crimes committed. During the year, approximately 400 prisoners accused of treason related to terrorism offenses filed petitions for habeas corpus.

Following the August 2000 Military Supreme Court decision to nullify the terrorism conviction and life sentence of U.S. citizen Lori Berenson, a civilian court tried her case. In June 2001, that court found Berenson guilty of collaboration with the MRTA terrorist group and sentenced her to 20 years in prison. Berenson's appeal to the Supreme Court was unsuccessful, but the IACHR determined that Berenson had not been given a fair trial. In July the Government took the matter to the Inter-American Court; there was no indication when the Court might rule on the appeal.

In 2001 the Inter-American Court provided the Ministry of Justice a clarification of its 1999 ruling that two 1995 amnesty laws were incompatible with the American Convention on Human Rights. These exempted military officials from prosecution and were used to protect officers accused of the 1991 Barrios Altos massacre. Former intelligence adviser Montesinos faced more than 60 trials. Based on the clarification, the Government planned to bring other members of the security forces to justice in other human rights abuse cases (see Section 1.a.).

In June 1999, the Inter-American Court of Human Rights ruled against the Government in the case of four Chileans convicted of treason by a military tribunal and sentenced to life in prison. The Court found that the military had denied the defendants' due process rights and ruled that a civilian court should have had jurisdiction. In May 2001, the Supreme Council of the Military Court invalidated an earlier military court decision against providing new trials and ordered new, civilian trials for the four Chileans. As of year's end, the oral phase of the trial was expected to begin in early 2003.

A specialized terrorism chamber of the Superior Court handled terrorism cases. The chamber is based in Lima, but its judges travel to the provinces as needed. During the year, judges from this court traveled around the country to hear cases of persons with old warrants outstanding for terrorism charges (see Section 1.d.).

In late 2000, the Government established a new Pardons Commission, which released 32 persons from prison during the year. A total of 760 persons have been pardoned and released after being accused unjustly of terrorism since 1996. The original ad hoc Pardons Commission, with a mandate to consider applications of those who believed themselves to be accused unjustly of terrorism, ended its work on December 31, 1999. NGOs advocated that the new Commission expand its review to include all convictions and sentences rendered by military courts, but the Government had not made a decision on the matter at year's end. Approximately 1,500 cases were pending review.

In August the Government issued a supreme decree to award compensation to persons released from prison through the Pardons Commission program, as recommended by the Human Rights Ombudsman in 1999.

There were no reports of political prisoners. Sendero Luminoso and MRTA members charged with or serving sentences for terrorism were not considered to be political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence

The Constitution requires security forces to have a written judicial warrant to enter a private dwelling. However, there were reports that the authorities did not always observe this requirement in practice.

The Constitution provides for privacy of communication. There were few complaints that the Government violated this right.

There was no progress in the case of former army intelligence (SIE) agent Luisa Margarita Zanatta Muedas, who fled the country in 1998, after allegedly providing information regarding SIE wiretapping operations. She was charged with disobedience and being absent without permission. In 1999 the Human Rights Ombudsman recommended that the Government pardon Zanatta, that the Public Ministry investigate the wiretapping, and that Congress broaden the investigation conducted by its committee on defense. At year's end, Zanatta's case was still under investigation and scheduled to be tried in a military court.

In April Congress passed a new wiretapping law that expanded the scope of officials who are authorized to request wiretapping permits to the attorney general, district attorneys, and case prosecutors. A judge must approve each request. The Government contended that the new law should aid in fighting organized crime, but opponents protested that it lends itself to civil rights violations.

A 2000 law makes military service voluntary and prohibits forced conscription. Registration for military service remains obligatory for men aged 18 and older. The President retains the authority to decree the reestablishment of mandatory service. Since past efforts to prohibit forced conscription failed, the Human Rights Ombudsman monitored the law's implementation. As of October, the Ombudsman's office had received eight complaints of forced conscription. There were also reports that some young men from poor, rural areas were taken into military service when they went to register; they were unaware that military service was no longer mandatory. Also, in some rural areas, families reported to human rights NGOs that their sons were taken into the military before they turned 18. According to NGOs, the military explained this by saying that young men who were eager to join their ranks sometimes lied about their age.

There were no reports of forced conscription by the MRTA (most of whose surviving members are jailed). Sendero Luminoso, however, continued to coerce indigenous persons to join its ranks (see Section 5).

In December the Ombudsman's office reported that there were new problems involving abuses by family planning personnel during the year. There were isolated reports that women did not take the full 72 hours to consider their alternatives, as is required by law, before undergoing voluntary sterilization procedures. This was generally attributed to the fact that some women arrived at a clinic ready to give birth and requested the sterilization procedure be performed that day, rather than having to make arrangements to return to the clinic at another time.

Acting on allegations that more than 300,000 women were forcibly sterilized between 1995 and 2000 under the Fujimori administration, in October 2001, Congress directed the Commission on Health to investigate the voluntary surgical sterilization program. Earlier investigations of the allegations found that primarily during 1996-97, health workers in public hospitals and family planning clinics administered by the Ministry of Health had induced female patients to opt for sterilization by promising them food or another type of goods or services, or by not providing them with complete information about available alternatives.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected this right in practice; however, some problems remained. Although the general climate for freedom of the press improved, the Government harassed opposition journalists and those formerly with the Fujimori regime, using real or threatened judicial sanctions.

The press represented a wide spectrum of opinion, including those in favor of and in opposition to the Government. In the greater Lima area, there were 25 daily newspapers, 7 television stations, 65 radio stations, and 2 news channels on 2 commercial cable systems. There were numerous small provincial newspapers, television and radio stations. All were privately owned except for one Government-owned daily newspaper, one government-owned television network, and two government-owned radio stations, none of which enjoyed a particularly large audience, although the television network covered the nation.

Several media executives remained jailed pending investigations of corruption charges stemming from media manipulation during the Fujimori regime. At the end of 2001, Eduardo Calmell, former director of the daily *Expreso*, fled the country after being released from prison on a habeas corpus writ. At year's end, two minority shareholders of TV Channel 2 and the chairman of TV Channel 10 remained in jail. Other television executives were fugitives from justice, including the major shareholder and chairman of TV Channel 4, the major shareholder of TV Channel 5, and the chairman of the board of TV Channel 9.

In May the authorities placed Alex and Moises Wolfenson, the publishers of pro-Fujimori tabloid *El Chino* and of opposition daily *La Razon*, under house arrest on corruption charges. On June 22, a radio station broadcast a tape in which Salomon Lerner Ghitis, the chairman of the government-owned Financial Corporation for Development and a government insider, threatened Alex and Moises Wolfenson with judicial proceedings and jail time should they continue to criticize the Government. In September a court ratified the house arrest.

On August 1, an anticorruption judge found daily newspaper *El Tio* and Editora Sport, S.A., the company that published opposition dailies *La Razon* and *El Chino*, and *El Men*, guilty of corporate embezzlement for the dealings their publishers Jose Olaya and Moises Wolfenson had with Vladimiro Montesinos.

At year's end, the Government had not yet paid the compensation that the Inter-American Court ordered in February 2001 to Baruch Ivcher for violating his nationality, ownership, due process, and freedom of expression rights. On June 20, Congress passed a law accepting an arbitration procedure to fix the amount of compensation obtained in such proceedings, and the executive approved the law on July 7.

In January President Toledo freed reporter Pedro Carranza, whom the Fujimori administration accused of being an MRTA member and jailed for 8 years. Two reporters, Juan de la Matta and Javier Tuamana, were still in prison, also accused of terrorism by the Fujimori government.

In April an anticorruption judge declared Channel 4 corporately responsible in the corruption proceedings against owners Jose Enrique Crousillat and Jose Francisco Crousillat, a decision upheld by the anticorruption criminal court in September. The Government's special prosecutor also requested that Channel 5, the *Expreso* newspaper, *Si* magazine and other formerly pro-Fujimori media be held corporately responsible in the proceedings against their owners. The authorities declared that Jose Francisco Crousillat, as well as his father, Jose Enrique Crousillat, were fugitives, which invalidated any statute of limitations on their corruption charges. In August and September, the court held daily tabloid *Expreso*, TV Channel 5, and TV Channel 4 corporately responsible for their owners' corruption charges.

Throughout the year, Genaro Delgado sought to regain control of Panamericana Television (Channel 5) through the courts, arguing that he was the majority stockholder. The officers of Panamericana Television cast the case as an affront to press freedom and accused President Toledo of intervening with the courts in Delgado's favor. The court eventually required Delgado to secure his claim by posting bond. He could not do so, and the case remained pending in the courts at year's end.

A few journalists and media outlets were reportedly intimidated during the year. According to the National Journalists Association (ANP), 60 cases of harassment were reported through September, mainly in the provinces. The majority of these incidents took the form of threats of violence; threats of judicial proceedings; and charges of slander from local politicians, police, military officials, or businessmen.

On February 4, Army specialist and Chepen military recruitment officer Cristobal Cardenas-Lazaro and photographer Ramon

Bazan-Quiroz physically and verbally assaulted Hector Enrique Chavarry-Carahuatay, producer of the news program "Democracia" on the Frecuencia Popular radio station in Chepen. Those involved in the attack said it was in retaliation for Chavarry-Carahuatay's frequent news stories on corruption involving the chief of the Chepen military recruitment office, who had allegedly been soliciting bribes from citizens applying for military identification cards.

Also on February 4, producer Edmundo Gutierrez-Saldivar and host Bertha Chacon-Diaz of the program "Presencia Regional Noticias," on the Oasis radio station in Quillabamba requested a personal protection order from deputy police chief for La Convencion province, in response to recurrent death threats from Army Major Jaime Llanos-Barron. Gutierrez-Saldivar and Chacon-Diaz reported that they had been followed for several days.

On August 13, a crowd of President Toledo's supporters met the President and his wife with signs and handouts insulting opposition media, calling them "Montesinos's jackals" and accusing them of working to destabilize the Toledo administration. On August 14, anchorman Beto Ortiz showed in his Channel 2 TV program that a governmental organization published and distributed the handouts to the public at the airport.

In September Gente magazine alleged being pressured by the Government for having published material about the second wedding between President Toledo and his wife. On October 9, the anticorruption judge Sara Maita opened an investigation against Gente publisher Enrique Escardo for Gente's having supported the 1996 government decision to withdraw Baruch Ivcher's citizenship.

On October 24, a group of police officers allegedly used tear gas and beat a number of reporters in front of the Congress, where they were covering an event. Four journalists were injured, one of whom was hospitalized. The Interior Minister promised an investigation, as did President Toledo when he addressed the Inter-American Press Association the next day.

The Government did not formally censor the media, although fears of generating unwelcome government attention encouraged journalistic self-censorship. The Government did not censor books, publications, films, or plays.

The Government did not limit access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of peaceful assembly, and the authorities generally respected this right in practice. The police used tear gas and occasionally force to disperse protesters in various demonstrations during the year. The law does not require a permit for a public demonstration; however, organizers must inform the Ministry of Interior's political authority (Prefect) about the kind of demonstration and its location. Demonstrations could be prohibited for reasons of public safety or health. Municipal authorities routinely granted permission for demonstrations.

Political rallies were unimpeded throughout the regional elections campaign process. There were two incidents of violence targeted at members of the National Unity Party in the Cajamarca area. An independent, rival candidate was arrested for the murder of a National Unity mayor from the Cajamarca area (see Section 1.a.).

Although most demonstrations were peaceful during the year, protests in Arequipa, Tarapoto, Aguatia and other areas turned violent with rock-throwing, tire-burning, looting, and other damage to public and private property. In June the Government declared a 30-day state of martial law in Arequipa following violent and destructive citywide protests against energy-sector privatization plans. Similar although smaller and less destructive protests in support of Arequipa's privatization protest took place June 17 and 18 in the southern cities of Moquegua, Juliaca, Cusco, and Tacna, where injuries and property damage were reported. In October a prosecutor in Arequipa accused 24 police officers with killing Fernando Talavera Soto and Edgar Pinto Quintanilla, who died after being hit with tear gas canisters during the Arequipa protest (see Section 1.a.). The officers were charged with negligent homicide; no trial had begun at year's end.

On July 17, protests by coca farmers turned violent as they ransacked an antinarcotics NGO's office and then burned equipment and vehicles in Aguaytia. Other groups blocked major highways with rocks and debris during the year to protest the Government's financial policies. According to human rights observers, the police generally maintained order during the year without using excessive force.

There were over 3,000 protests by workers asking for higher wages and by disgruntled citizens pressing various social and economic demands. According to labor advocates, groups were able to express their opinions publicly, while the National Police generally maintained order in a lawful manner. Police occasionally used tear gas against protesters. Police arrested some protestors during the year for violent or destructive offenses.

The Constitution provides for freedom of association, and the authorities generally respected this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Catholic Church received preferential treatment from the State. The Constitution establishes the separation of church and state, but it also acknowledges the Catholic Church's role as "an important element in the historical, cultural, and moral development of the nation." The Catholic Church and Catholic clergy received preferential treatment and tangible benefits from the State in the areas of education, taxation of personal income, remuneration and taxation of institutional property. Teaching about Roman Catholicism in primary and secondary schools was mandatory. By law, the military could hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion of military personnel.

All faiths were free to establish places of worship, train clergy, and proselytize. Religious denominations or churches were not required to register with the Government or apply for a license. Conversion from one religion to another was allowed, and missionaries could enter the country and proselytize.

The Freedom of Conscience Institute (PROLIBCO), an NGO that favored strict separation between church and state and opposed the preferential treatment accorded to the Catholic Church, claimed that the Government discriminated against non-Catholic groups by requiring payment of import duties and a sales tax on Bibles brought into the country. In May 2001, the Jehovah's Witnesses claimed that the Government denied them tax exemption for imported Bibles and other religious educational material. In April they filed two legal actions to uphold their right as a nonprofit educational entity to be exonerated from payment of duties. In May a Superior court ordered the temporary suspension of the surety fees, but according to PROBLICO, by year's end the court had not made a final ruling in this case.

The Ministry of Education required all primary schools, both public and private, to follow a set Catholic religion course. Parents who did not wish their children to participate in the mandatory religion classes had to request an exemption in writing to the school principal. According to PROBLICO, there were some complaints that requests for exemptions were denied during the year. Non-Catholics who wished their children to receive a religious education in their own faith were free to organize such classes, at their own expense, during the weekly hour allotted by the school for religious education, but had to supply their own teacher.

PROLIBCO objected to the requirement to teach the Catholic religion in the school curriculum. It claimed that the alternatives available to non-Catholic parents violated the constitutional protection of privacy and confidentiality of one's convictions and beliefs. PROLIBCO supported an initiative by two nonsectarian (and antireligious) organizations, the Lima-based Movimiento Arreligioso Peruano and Masa Peru, to eliminate from the Constitution any reference to the Catholic Church. In addition, PROLIBCO was seeking to collect enough signatures to ask the Constitutional Court to rule on the 1980 Concordat signed with the Vatican that granted special status to the Catholic Church.

For a more detailed discussion see the [2002 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the right of free movement; however, the authorities legally may restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Police could check travelers at control points throughout the country. There were no other political or legal constraints on foreign travel or emigration. Repatriates, both voluntary and involuntary, were not treated differently from other citizens.

The Constitution prohibits the revocation of citizenship. However, according to the Nationality Law, naturalized citizens may lose their citizenship for, among other reasons, committing crimes against the State, national defense, and public security, as well as for reasons that "affect the public interest and the national interest."

Sendero Luminoso occasionally interrupted the free movement of persons by setting up roadblocks in sections of the Upper Huallaga Valley and the Apurimac and Ene River Valleys.

Political violence in the 1980s and early 1990s resulted in the internal displacement of hundreds of thousands of persons and massive migration. Despite government and NGO efforts, many internally displaced persons (IDPs) lacked basic documentation, such as birth certificates and voter registration cards. The Government's program for the Repopulation and Development of Emergency Zones (PAR) provided documentation that can be used both to request PAR assistance to return to one's community of origin and to apply for a national identity card.

The law, which was updated in December, includes provision for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees in granting refugee status and recognized the Catholic Migration Commission as the official provider of technical assistance to refugees. The commission also advised citizens who feared persecution at home and sought asylum abroad. As of December, the Catholic Migration Commission reported that 83 individuals had requested refugee status. There were 58 persons who transited another country to ask for first asylum. The Government recognized 10 individuals as new refugees, and there were 784 refugees in the country. Refugees were allowed to live and work without restrictions and may apply for naturalization. The status of refugees was reviewed annually.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for the right of citizens to change their government peacefully, and citizens exercised this right through free and fair elections.

In July 2001, President Alejandro Toledo assumed the presidency following a peaceful transfer of power through generally free and fair national elections held in April and June 2001. Voting was by secret ballot and mandatory for citizens between the ages of 18 and 70; however, members of the armed forces and the police, as well as felons, were ineligible to vote. As of December, Congress was considering a bill that would give members of the armed forces and the police the right to vote. The law bars groups that advocate the violent overthrow of the Government from participating in the political process.

In 2000 the 120-member Congress approved the creation of multiple district representation for electing members to Congress, which was designed to provide better geographic representation. Following the April 2001 elections, the party breakdown in Congress was 45 seats, Peru Posible; 28 seats, APRA; 17 seats, Unidad Nacional; 13 seats, Decentralized Parliamentary Union; 11 seats, Independent Moralizing Front (FIM); 3 seats, Cambio 90-Nueva Mayoria; and 1 seat each for Solucion Popular, Renacimiento Andino, and Todos Por La Victoria. The length of a term in Congress is 5 years. The legislature functioned independently from the executive.

The Constitution establishes three bodies to administer elections: The National Board of Elections (JNE); the National Office of Electoral Processes (ONPE); and the National Registry of Identification and Civil Affairs (RENIEC). The JNE sets the legal parameters and rules on election-related disputes and challenges. The ONPE administers elections and the RENIEC issues election identity documents.

On November 17, over 12 million citizens cast ballots for regional and municipal officials. Regional governments did not exist in the political structure prior to this election. Election observers, including the Organization of American States, and the media agreed that the balloting and counting of votes were transparent, free, and fair. The new regional government officials were scheduled to take office in January 2003.

The November 17 elections were generally peaceful, although more than 40 violent incidents were reported, primarily in the interior of the country, including a confrontation between protesters and soldiers guarding voting materials that resulted in two deaths. A heavy police and military presence helped ensure order on election day. On election day, Sendero Luminoso guerrillas fired on a police unit in La Libertad department, but no one was injured. On November 15, Sendero Luminoso elements killed a PNP captain in a confrontation near Ayacucho.

In July 2001, the Judicial Branch reopened the investigation into the falsification of over 1 million voter signatures that occurred during the 2000 elections. The authorities brought charges against Jose Portillo, former chief of ONPE, for election fraud in relation to the falsified signatures. As of December, Portillo remained under house arrest and an investigation was underway.

Also in July 2001, Congress modified the election law. The percentage of signatures required for the registration of a new political party was reduced from 4 percent to 1 percent of the voters who participated in the past election. The modified law prohibits reelection of a president to successive terms.

In June Congress voted to suspend Congresswoman Martha Chavez from her congressional duties following allegations of corruption. She was a member of Fujimori's Cambio 90 party. Although not removed from Congress, Chavez was barred from participation in congressional activities. Her immunity from judicial proceedings was lifted as a result of the vote, and a trial was pending at year's end.

Women and some minorities participated actively in government and politics. A 2000 law states that at least 30 percent of each party's ballot for congressional elections, and at least 25 percent of candidates for municipal elections, must be from each sex. There were 21 women in the 120-member Congress. There was 1 woman in the 16-member Cabinet, the Attorney General was a woman, and there was 1 woman on the Supreme Court.

Traditionally, most leadership positions in government were held by an elite minority of European descent. President Toledo was the country's first elected president of mixed Caucasian and indigenous ancestry. However, it was rare for indigenous persons, who make up more than one-third of the population, to hold high public office. One member of the Aymara indigenous group served in Congress and was the head of the Committee for Indigenous and Afro-Peruvian Affairs until July.

The Afro-Peruvian minority, unofficially estimated to be 3 to 5 percent of the total population, was not represented in the leadership of the executive branch of the Government. There were three Afro-Peruvian members of Congress.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government permitted numerous NGOs dedicated to monitoring and advancing human rights to operate freely; unlike in previous years, these groups reported no harassment or other attempts by the authorities to hinder their operations.

Most human rights NGOs were independent and generally objective. The National Coordinator for Human Rights (Coordinadora) was an umbrella organization for more than 60 human rights NGOs. The Coordinadora sought to avoid politicizing its positions on human rights issues, although its constituent members could do so in their own names. A number of other human rights groups associated with the Catholic Church or with government institutions operated independently or on the margins of the Coordinadora.

The human rights community reported that the Toledo administration continued to work toward strengthening government-civil society relations. Toledo named former human rights advocate Gino Costa as Minister of Interior in July. Several other high level officials at the Ministry of Interior had strong human rights backgrounds. Unlike in previous years, government officials did not accuse NGOs of being overprotective of criminals and terrorists to the detriment of victims. There were some government complaints that the IACHR was overprotective of terrorists.

According to COMISEDH, military commanders occasionally did not grant access to military facilities to human rights observers. In December 2000, the Human Rights Ombudsman's office was granted access to the Callao naval base for the first time. The Ombudsman's office continued to have access to the prison at the Callao naval base, as well as other facilities during the year (see Section 1.c.). Not all government facilities provided access to the public; NGOs may work through the Ombudsman's office for information regarding a military facility.

The Office of the Human Rights Ombudsman received funds from the Government and foreign governments and was considered an independent and effective institution. Congress votes to select the Ombudsman, who must receive at least a two-thirds majority of votes and serves a 5-year term. The Ombudsman's office had investigative independence and the ability to inform the public of its conclusions and recommendations. However, the office had no enforcement mechanism other than moral suasion. The Ombudsman's office issued reports throughout the year on a variety of issues including forced disappearance, a compendium on legislation for victims of terrorism, family planning services offered by the Ministry of Health, and an annual report on the overall human rights situation.

At year's end, there was an interim Ombudsman. The former Ombudsman left office in 2000 to run for president in the April 2001 elections. On April 30, Congress tried to elect a new Ombudsman, but the vote failed to produce a required two-thirds majority. Human rights, political, and civil society leaders criticized Congress for its inability to come to consensus, thereby placing the institution in jeopardy. To improve the odds that Congress will be able to reach a consensus in the future, in September Congress changed the Ombudsman's law to provide that Congress may vote to invite an individual to run for Ombudsman, if at least 20 percent of Congress (24 members) vote to support that person's candidacy. Congress anticipated that with an initial backing of 20 percent of congressional members, a candidate would have a better chance of receiving the required two-thirds majority (80 votes).

In February 2001, the country returned to the jurisdiction of the Inter-American Court of Human Rights. In July 1999, the Fujimori Government withdrew from the Court after the Court determined that the Government failed to provide due process in the case of four Chileans convicted of aggravated terrorism and treason by a military tribunal (see Section 1.e.).

In August the IACHR reported that the Government had not complied with Commission recommendations as it had promised to do in 159 cases of human rights violations from past years. In August the IACHR's Rapporteur for Peru visited the country to evaluate the Government's progress and was to present the findings of that visit before the Commission later in the year.

The Truth and Reconciliation Commission, established by former President Paniagua and strengthened by President Toledo, began work in November 2001. The commission has a mandate to analyze the political, social, and cultural conditions that fostered an era of violence between May 1980 and November 2000, during which more than 25,000 persons were killed and—according to the Ombudsman in May—6,089 persons disappeared. The commission also is to clarify abuses of human rights committed by terrorists and the State; locate the victims or their remains; determine individual or institutional responsibility for these violations; propose a system of reparations for the victims' families; recommend institutional, legal, and educational reforms; and propose initiatives designed to advance peace, the rule of law, national reconciliation, and democracy. The commission has no authority to prosecute alleged perpetrators. It collected testimony from 14,000 victims, victims' families, and other witnesses. The commission held dramatic and emotional public hearings during the year where survivors and family members of murdered or disappeared victims told of the violence inflicted by government and paramilitary forces. On July 1, the Government announced that it had extended the commission's working period by 5 months, until July 2003.

There were no reports of Sendero Luminoso hampering the work of human rights observers.

Section 5 Discrimination Based On Race, Sex, Disability, Language, Or Social Status

The Constitution provides for equal rights for all citizens, and specifically prohibits discrimination based on ethnic origin, race, sex, language, opinion, or economic condition. However, discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted, although progress was made in a number of areas.

Women

Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls was a

chronic problem. Such abuses were aggravated by insensitivity on the part of law enforcement and judicial authorities toward the female victims. A National Institute of Statistics and Information (INEI) survey reported that during 2000, 34 percent of women were battered by their partner, and that 19 percent of those women were battered frequently. The survey reported that close to 43 percent of poor women were battered. The Ministry of Women and Social Development (MIMDES) and NGOs agreed that many domestic abuse cases were never reported. Although official figures for the number of arrests and convictions in abuse cases were unavailable, NGO sources contended that the majority of reported cases did not result in formal charges due to fear of retaliation from the accused spouse, or because of the cost involved in pursuing a complaint. In addition, legal and physical protection was limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

The domestic violence law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home; authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence; and allows any health professional to certify injuries. In 2000 Human Rights Watch called on the Government to improve legislation on domestic violence by eliminating mandatory reconciliation sessions between victims and abusers, and by providing law enforcement and social service providers with training to improve their sensitivity to victims' needs. In January 2001, Congress approved a law that states that reconciliation sessions between the abuser and victim are not required in cases of domestic violence. A 2000 law expanded the definition of domestic violence to include sexual violence, and to include all intimate partners whether or not the victim and perpetrator had ever lived together.

MIMDES ran the Women's Emergency Program, which focused on the legal, psychological, and medical problems facing women and children who were victims of domestic violence. As of August, MIMDES operated 36 centers staffed entirely by women, bringing together representatives of various government institutions—police, prosecutors, counselors, and public welfare agents—to which abused women might need recourse. As of August, these centers had assisted about 20,338 victims of domestic violence and abuse. The monthly average of reported abuse cases was approximately 2,500. MIMDES continued its public education campaign to sensitize government employees and the public to domestic violence. With NGO assistance, MIMDES educated police about domestic violence and trained officers in all police stations in processing domestic violence cases. The Human Rights Ombudsman's Office continued to complain that officers reacted indifferently to charges of domestic violence, even though the law requires all police stations to receive such complaints.

According to the Human Rights Ombudsman, many rape victims complained that court-appointed medical examiners inappropriately delved into their sexual histories. The victims accused judges of looking more favorably on rape victims who were virgins prior to the rape and of believing that a woman who was raped must have enticed her attacker. Many victims were afraid of personally filing a complaint of sexual abuse, particularly in cases where the perpetrators were police officers.

Prostitution is legal, but the law prohibits and sanctions activities of those who would obtain benefits from prostitution, such as pimps.

Sexual harassment was a problem, according to the Ombudsman's office. The law against sexual harassment does not provide for sanctions or sentencing but does give victims of sexual abuse the right to abandon their job and subsequently sue their abuser. Women's rights advocates contended that the law was completely ineffective, noting that it had never been applied in court. In October the Congressional Commission for Women and Social Development approved a bill that would prohibit sexual harassment in the public sector (military, police, etc.) and punish the offense.

In December the Ombudsman's office reported that there were new problems involving abuses by family planning personnel during the year (see Section 1.f.).

Also in December, the Ombudsman's office reported that it had begun documenting cases of failure by the Ministry of Health to provide voluntary sterilizations to clients who sought such services at their facilities. The Ministry of Health criticized the Ombudsman's office for this statement.

The Constitution provides for equality between men and women, and 95 amendments to the Employment Promotion Law, as well as other laws relative to marriage, divorce, and property rights, prohibit discrimination against women. Racial and sexual discrimination in employment advertisements or announcements of educational opportunities were prohibited; however, they continued to occur in practice. In June 2001, the Constitutional Tribunal declared unconstitutional a 1998 law that stripped 3,000 policewomen of their ranks as officers. The law prohibits the arbitrary firing of pregnant women.

Traditional assumptions and misconceptions often impeded access by women to leadership roles in both the public and private sectors. Women primarily from the upper and upper-middle classes advanced in recent years into leadership roles in various companies and government agencies. Due to societal prejudice and discrimination, women historically suffered disproportionately from the country's pervasive poverty and unemployment.

Children

The Government provides free, compulsory education through secondary school. Education was generally available throughout the country, but there was a shortage of qualified teachers, primarily in jungle regions. Fees for uniforms and books posed problems for poor families. Largely because of widespread poverty, approximately one-third of all school-age children and adolescents worked during daytime hours rather than attend school. Approximately 6 percent of children between the ages of 6

and 12, and 17 percent of adolescents between the ages of 12 and 17, either never attended school or abandoned their education. Among children and adolescents who lived in poverty or extreme poverty, the corresponding figures were 51 percent for children aged 5 to 9 years old and 50 percent for children aged 10 to 14. School nonattendance was highest in rural and jungle areas and affected girls more than boys. Pregnant school-age girls had the right to begin or continue attending school.

An INEI survey conducted during 2000 estimated that nearly 70 percent of the country's 10 million children under 18 years of age lived in poverty; of them, roughly 20 percent lived in extreme poverty. Approximately 25 percent of children under age 5 were malnourished. The infant mortality rate was 39 per 1,000. According to INEI, approximately 75 percent of children not living in poverty attended school through the high-school level, whereas only 43 percent of children living in poverty reached high school. Children living in poverty averaged only 4.5 years of education compared to 9.3 years for children living above the poverty line. Only 1.2 percent of children living in extreme poverty attained university-level education, compared with 25.6 percent of children who lived above the poverty line.

MIMDES's Children's Bureau coordinated child and adolescent related government policies and programs. At the grassroots level, 1,010 Children's Rights and Welfare Protection Offices received and resolved complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operated approximately 55 percent of these offices, while schools, churches, and NGOs ran the remaining 45 percent. Law students staffed most of the units; only the offices in the wealthiest districts of the country had professionally trained lawyers, psychologists, and social workers. When these offices could not resolve cases, officials typically referred them to the local prosecutors' offices of the Public Ministry. Settlements adjudicated by these offices were binding legally and had the same force as judgments entered by a court of law.

Violence against children and the sexual abuse of children were serious problems. The INEI survey showed that an estimated 41 percent of parents abused their children. In rural areas, this figure increased to 55 percent. In 2000 the Municipal Ombudsman's Office for Children and Adolescents for Lima and Callao documented 586 sexual assaults against children 5 years of age and under; 2,937 against children aged 6 to 12; and 5,935 against children aged from 13 to 17. The report confirmed that 70 percent of the assaults occurred in the home by a relative or someone known to the victim and the victim's family. According to NGOs, many abuse cases were never reported to the authorities, since many persons believed that such problems belong within the family and should be resolved privately. MIMDES's Women's Emergency Program worked to address the legal, psychological, and medical problems facing women and children who were victims of violence.

Although laws exist that prohibit sexual abuse of minors and police enforce such laws, there continued to be reports of child prostitution.

Street crime committed by children and adolescents, including robbery, physical assault, and vandalism, was often gang-related. In 2001 the Government rescinded laws that allow 16- to 18-year-old criminal gang members to be prosecuted in military courts and sentenced to a minimum of 25 years in adult prisons (see Section 1.e.).

Child labor was a serious problem (see Section 6.d.).

The National Initiative on the Rights of the Child was the largest NGO of its kind and coordinated the work of 27 groups concerned with the problems of children throughout the country.

Persons with Disabilities

The Constitution provides that persons with severe disabilities have "the right to have their dignity respected and to be provided by law with protection, care, rehabilitation, and security." Legislation that established the National Council for the Integration of People with Disabilities (CONADIS) specifies rights, allowances, programs, and services. The law prohibits discrimination, mandates that public spaces be barrier-free and that buildings be architecturally accessible, and provides for the appointment of a disability rights specialist in the Human Rights Ombudsman's office. Congress passed a resolution designating 2003 as the "Year of the Disabled," to raise awareness about problems faced by disabled citizens. In practice, however, the Government devoted little attention and resources to persons with disabilities, who remained economically and socially marginalized.

The 1993 census counted 288,526 persons with disabilities, or 1.3 percent of the population; however, in 2001 the Ministry of Health and the Pan American Health Organization estimated that the actual number of persons with disabilities could be as high as 3 million, or 13.8 percent of the population. CONADIS estimated that between 10 and 13 percent of the population was disabled.

The Government did not allocate sufficient funds to make genuine integration of persons with disabilities into the economy possible. In 2001 Congress increased the annual budget allocated to integrate persons with disabilities into the economy from \$250,000 to \$457,000 (875,000 to 1.6 million soles). Although the law prohibits discrimination in the workplace, it is vague regarding the source of funds to pay for the human assistance, technological support, and environmental adaptations that often are necessary to enable workers with disabilities to be productive. As a result, persons with disabilities and the private agencies serving them generally relied on public charity and on funding from international organizations.

Although construction regulations mandate barrier-free access by persons with physical disabilities to public service buildings, little effort was made to implement this provision. There were no accommodations, such as interpreters for the deaf in government service offices and Braille or recorded versions of the Constitution, which would facilitate the participation of persons with disabilities in the basic processes of democracy and citizenship. However, the Human Rights Ombudsman reported that a program to facilitate voter education and access for persons with disabilities in the 2001 elections was successful.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe disabilities actually worked. Among those who did, many were channeled into occupations traditionally assumed to be "suitable" for persons with disabilities, such as telephone switchboard operation and massage, in the case of the blind. Some private companies initiated programs to hire and train persons with disabilities, and a private foundation provided small loans to persons with disabilities to start up businesses. Nevertheless, such persons faced discrimination by potential employers. For example, the statute governing the policies and procedures of the judicial branch specifically prohibits the blind from serving as judges or prosecutors, a provision that the National Judiciary Council has interpreted to apply to all persons with disabilities.

Indigenous People

The Constitution prohibits discrimination based on race and provides for the right of all citizens to speak their native language; however, the large population of indigenous persons faced pervasive societal discrimination and social prejudice. Many factors impeded their ability to participate in, and facilitated their deliberate exclusion from, decision making directly affecting their lands, culture, traditions, and the allocation of natural resources. According to indigenous rights groups, the 1993 Constitution and subsequent implementing legislation are less explicit about the inalienability and unmarketability of native lands than earlier legislation. Pervasive discrimination and social prejudice intensified feelings of inferiority and second-class citizenship. Many indigenous persons lacked basic documents such as a birth certificate or a voter's registration card that normally would identify them as full citizens and enable them to play an active part in society.

Many other factors also contributed to the marginalization of indigenous people in society. Poor transportation, language barriers, and communications infrastructure in the highlands and in the Amazon jungle region made political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government in Lima further limited the access and participation of indigenous people in society.

The native population of the Amazon region, estimated at between 200,000 and 300,000 persons, faced pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the native communities have a spiritual relationship with their land, and the concept of land as a marketable commodity is alien to them. Nevertheless, according to the director of the Human Rights Ombudsman's Native Communities Program, the only right still statutorily set aside for this native population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned to some nonindigenous tenant by right of tenure. However, the marketing and sale of the lands are no longer prohibited.

Indigenous groups continued to resist encroachment on their native lands by oil exploration and drilling interests. Many indigenous persons did not have title to the land on which they lived. For those who did, title to land does not include mineral or other subsoil rights, which belong to the State; this problem led to conflicts between mining interests and indigenous communities. Indigenous groups asserted that such encroachment often can damage the environment and negatively affect the health of the native people. For example, the 45,000 Aguaruna and the Huambisa, who inhabit an area near the border with Ecuador, are only two of many indigenous groups that complained about intolerable living conditions and inaccessible public services. In the same region, along the Pastaza River, the 4,700 members of the Achuar people lived in 36 communities, only 12 of which had title to their land.

Persons of indigenous descent who live in the Andean highlands speak Aymara and Quechua, recognized as official languages. They are ethnically distinct from the diverse indigenous groups that live on the eastern side of the Andes and in the tropical lowlands adjacent to the Amazon basin.

The Government's Indigenous Affairs Commission has a mandate to coordinate state services to meet the needs of indigenous people. The Commission, which is chaired by MIMDES, has among its members officials from a variety of relevant ministries as well as representatives of the indigenous peasant population in the highland and coastal areas, the native population of the Amazon jungle, and the Afro-Peruvian community. In 1999 Congress created an Indigenous Affairs Committee, which served to address the needs of the indigenous communities. In August Congress modified the committee's mandate to include indigenous peoples from the Amazon region, and changed its name to the Amazon, Indigenous, and Afro-Peruvian Affairs Committee.

President Toledo was the country's first elected president of mixed Caucasian and indigenous ancestry.

The two principal NGOs that represented the interests of the native population of the Amazon region were the Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDSESP) and the Confederation of Amazonian Nationalities of Peru (CONAP). Both organizations joined the Permanent Conference of Indigenous Peoples, an umbrella body that coordinated the activities of the country's indigenous population. CONAP believed that mining and other development operations were inevitable and, therefore, wanted native communities to share the benefits. AIDSESP opposed territorial encroachments. Both AIDSESP and CONAP were critical of the 1995 land law, which permits Amazonian land to be bought and sold if no one is living on it or

otherwise making use of it.

Sendero Luminoso continued to be a leading violator of the rights of indigenous people. The terrorist group continued to coerce indigenous peasants into joining its ranks and to demand war taxes. In December the Government announced that the police would attempt to rescue the members of at least 200 families, primarily from the Ashaninkas indigenous group, who were believed to be held captive by Sendero Luminoso forces in the central jungle areas of Junin and Ayacucho. The families were being forced to work in the cultivation of illegal coca leaves, provide lookout protection, and to prepare meals and perform other basic chores. Living and working conditions for the Ashaninkas in the encampment areas were reported as inhumane.

National/Racial/Ethnic Minorities

In December 2000, Congress passed legislation that made racial discrimination a crime, with penalties varying from 30 to 60 days of community service. For public officials the sentence is between 60 and 120 days of community service; violators also were disqualified from holding public office for 3 years. The country's population includes several racial minorities, the largest of which are persons of Asian and African descent. Afro-Peruvians, who tended to be concentrated along the coast, often faced discrimination and social prejudice, and they were among the poorest groups in the country.

On April 25, the Government's Indigenous Affairs Commission expanded to include Afro-Peruvians. In August Congress changed the name of its committee addressing the needs of the indigenous communities in the country, including Afro-Peruvians, to the Amazon, Indigenous, and Afro-Peruvian Affairs Committee.

Afro-Peruvians generally did not hold leadership positions in government, business, or the military; however, there were three Afro-Peruvian members of Congress. Both the navy and the air force were believed widely to follow unstated policies that exclude blacks from the officer corps. The law prohibits newspaper employment advertisements from specifying the race of the candidates sought, but employers often found discreet ways to relegate blacks to low-paying service jobs. The law prohibits various forms of discrimination by retail establishments against prospective customers. However, the law has not deterred discriminatory practices. Afro-Peruvians were often portrayed unflatteringly by the entertainment industry as individuals of questionable character.

Although citizens of Asian descent historically suffered discrimination, their social standing improved in recent years. Many persons of Asian descent held leadership positions in business and government.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the law provide for the right of association; however, worker rights advocates claimed that the laws were overly restrictive. About 5 percent of the formal sector workforce of 8.3 million belonged to organized labor unions. There were approximately 12 million economically active persons in the country, of which about 49 percent had permanent employment, 43 percent were underemployed, and 8 percent were unemployed. Government and labor estimates showed that well over half of all workers participated in the informal sector of the economy or were underemployed in the formal sector.

Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers were not required to seek authorization prior to forming a trade union, nor could employers legally condition employment on union membership or nonmembership. In the past, labor advocates asserted that laws promulgated by the Fujimori administration in 1992, as well as provisions included in the 1993 Constitution, failed to protect the rights of workers to form unions. Labor advocates claimed that many workers were reluctant to organize due to fear of dismissal. In December Congress passed a law that addressed some of the International Labor Organization's (ILO) primary objections to the 1992 labor law. The new law allows apprentices to join unions, reduces the number of individuals required to form a union, recognizes the right to strike, and allows for collective bargaining by sector.

In recent years, the ILO criticized a provision that permitted businesses to employ up to 30 percent of their workforce from workers between the ages of 16 to 25 in apprenticeship-type jobs; workers in this age bracket were precluded from union membership and participation. To address this complaint, a 2001 law reduced to 10 percent the percentage of employees that a company may employ as apprentices between the ages of 16 and 25.

In December 2000, then-President Paniagua established a tripartite National Labor Council for the Government, workers, and business to address labor problems. In September 2001, President Toledo reinstalled the National Labor Council and opened two regional councils, one in Arequipa and one in Cusco, to address labor issues unique to each region. The Council served to maintain a dialog between labor, business, and the Government.

Unions represented a cross section of political opinion. Although some unions traditionally were associated with political groups, the law prohibits unions from engaging in explicitly political, religious, or profit-making activities. Union leaders who ran for Congress in the 2001 elections did so without official union sponsorship. Nevertheless, some union activists who ran for public office received unofficial backing from their unions.

The new law passed in December addressed some of the ILO's objections to former legislation on collective bargaining. In the past, the main union confederations criticized the Employment Promotion Act, amended in 1995 and 1996, for restricting the rights of workers, including the freedom of association and the right of workers to bargain collectively. Unions also complained that the law eliminates the right of dismissed workers to compulsory reinstatement if they prove that employers dismissed them unjustly. In practice, companies sometimes offered financial compensation instead of reinstatement as the legislation allows. Although the law prohibits companies from firing workers solely for involvement in union activities, this provision was not enforced rigidly. In November 2000, the ILO's Committee of Freedom of Association recommended that the Government enforce legislation protecting workers from dismissal on account of membership in a union or participation in union activities. In the first such action by the judiciary, in September the Constitutional Tribunal ruled that a major company, Telefonica, had to rehire over 400 workers suspected of being fired for their union affiliation.

In July Congress passed a law regarding collective dismissals that reinstated workers' rights in this area. In December the Ministry of Labor published a list of 7,156 names of former public sector employees who stand to benefit from the new Collective Dismissal Law. Additional names of approximately 5,850 eligible beneficiaries were to be released in 2003. The workers were among those deemed to have been fired unjustly during the Fujimori administration.

There were no restrictions on the affiliation of labor unions with international bodies. Several major unions and labor confederations belonged to international labor organizations, the international trade secretariats, and regional bodies.

b. The Right to Organize and Bargain Collectively

The Constitution recognizes the right of public and private sector workers to organize and bargain collectively; however, it specifies that this right must be exercised in harmony with broader social objectives. Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. The law does not prohibit temporary employees from joining a union, but they may not join the same union as permanent workers.

Union officials must be active members of their union, but the number of individuals each union may designate as "official" is limited, as is the amount of company time they may devote to union business. There were no legal restrictions that prevented unions from negotiating for higher levels of worker protection than the baseline standards provided for by law. There was no legal protection against employer interference in trade unions.

A union had to represent at least 20 workers in order to become an official collective bargaining agent. Representatives could participate in collective bargaining negotiations and establish negotiating timetables. Management negotiating teams could not exceed the size of union teams, and both sides were permitted to have attorneys and technical experts present as advisers.

Labor regulations permit companies unilaterally to propose temporary changes in work schedules, conditions, and wages, and to suspend collective bargaining agreements for up to 90 days, if obliged to do so by worsening economic circumstances or other unexpected negative developments, provided that they give their employees at least 15 days' notice of such changes. However, worker rights advocates alleged that, in practice, few employers respected this provision. If workers rejected an employer's proposed changes, the Ministry of Labor was required to resolve the dispute based on criteria of "reasonableness" and "economic necessity." Whether the changes proposed by employers in such instances were upheld in full or in part, employers were required to adopt all possible measures, such as the authorization of extra vacation time, in order to minimize the negative economic impact on their employees.

Although a conciliation and arbitration system exists, union officials complained that their proportionate share of the costs of arbitration often exceeded their resources. In addition, union officials claimed that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers "temporarily" to prevent increases in the number of union members. To address this concern, Congress passed a law in 2001 that restricts the number of temporary workers hired to 20 percent of a company's work force. Some labor advocates continued to claim that some companies did not comply with the law. Employers denied that they were biased against unions, and argued that the labor stability provisions of the legislation made long-term commitments to workers too expensive.

The new labor law passed in December addressed some of the ILO's objections to the 1992 labor law concerning the right to strike, including a requirement that a majority of workers in an enterprise, regardless of union membership, must vote in favor of any strike.

There were numerous labor strikes, demonstrations, and work stoppages during the year, most of which were peaceful. The Government took no actions to prevent the strikes or to reprimand participants. There were confrontations between union-affiliated protesters and police who were charged with controlling the large crowds. In a September incident, a scuffle broke out between two rival labor organizations, but no serious injuries or property damage occurred. No abuses were reported when the police removed roadblocks set up by protesters.

The law restricts unions that represent workers in public services deemed essential by the Government from striking. However, there were strikes during the year by public sector workers.

There were four export processing zones (EPZs). Special regulations aimed at giving employers in EPZs and duty free zones a

freer hand in the application of the law provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand. As a result, workers in such zones had difficulty unionizing. Worker rights advocates acknowledged that these few zones did not contribute substantively to labor's unionizing difficulties.

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, and there were no reports of forced labor during the year. The law specifically prohibits forced or bonded labor by children. According to MIMDES and the Ministry of Labor, there were no reports of forced child labor. Forced labor previously was found in the gold mining industry in the Madre de Dios area; however, the changing nature of the industry and government efforts to regulate it seem to have addressed the problem. NGO sources and the ILO reported in 1999 that mechanization largely had replaced manual labor, and the Ministry of Labor inspection programs helped deter illegal child labor in this industry.

Sendero Luminoso held indigenous families captive in remote areas, using their labor, including that of children, to grow food crops and coca (see Section 5).

d. Status of Child Labor Practices and Minimum Age for Employment

The Child and Adolescent Code of 1992 governs child and adolescent labor practices and restricts child labor based upon the age of the child, hours worked, and occupation; however, child labor was a serious problem. The legal minimum age for employment is 14; however, children between the ages of 12 and 14 may work in certain jobs if they obtain special permission from the Ministry of Labor and certify that they also are attending school. In certain sectors of the economy, higher minimums are in force: age 14 in agricultural work; age 15 in industrial, commercial, or mining work; and age 16 in the fishing industry. As of August, the Ministry had granted 912 permits to children between the ages of 12 and 17 to work in compliance with labor and education laws. The Ministry approved 1,795 of these permits in 2001. The law prohibits children from engaging in certain types of employment, such as work underground, work that involves the lifting and carrying of heavy weights, work where the child or adolescent is responsible for the safety of others; night work; or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school. As many as 1.9 million children worked primarily in the informal sector to help support their families. Of this total, NGOs estimated that some 600,000 children were under the age of 12.

Human and labor rights groups criticized the modification of the Child and Adolescent Code, passed in August 2000, that maintained the minimum age for work at 12 years old (with Government permission), and argued that it contradicts international guidelines on the minimum age of child workers.

Many children were pressed to help support their families from a very early age by working in the informal economy, where the Government did not supervise wages or working conditions. Other children and adolescents worked either in formally established enterprises or as unpaid workers at home. There were some reports of child prostitution (see Section 5).

Adolescents must be authorized to work and must be registered unless they are employed as domestic workers or as unpaid family workers. Adolescents may only work a certain number of hours each day: 4 hours for children aged 12 through 14, and 6 hours for children aged 15 through 17. Adolescent employment must be remunerated in accordance with the principle of equal pay for equal work. In practice, the Child and Adolescent Code provisions were violated routinely in the informal sector. Child and adolescent laborers worked long hours in the agricultural sector. Other children reportedly were employed at times in dangerous occupations or in high-risk environments, such as informal gold mining, garbage collection, loading and unloading produce in markets, brick making, coca cultivation, or work in stone quarries and fireworks factories, among others. Some child and adolescent labor tended to be seasonal.

Firms found guilty of violating child labor laws can be fined and have their operations suspended. The Ministry of Labor's inspectors had legal authority to investigate reports of illegal child labor practices. Inspectors conducted routine visits without notice to areas where child labor problems were reported. Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. The Ministry reported that there were a total of 170 labor inspectors, of which 120 worked in Lima. These inspectors conducted all labor inspections, both for adults and children. Labor inspections were primarily conducted in the formal sector. The National Police and local prosecutors exercised law enforcement authority.

e. Acceptable Conditions of Work

The Constitution provides that the State promote social and economic progress and occupational education. It states that workers should receive a "just and sufficient" wage to be determined by the Government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal."

In March 2000, the Government raised the statutory minimum wage from \$117 (410 soles) a month to \$128 (450 soles), which was not considered sufficient to provide a decent standard of living for a worker and family. The Government estimated the poverty line to be approximately \$45 (157 soles) a month per person. However, this figure varied from region to region. Actual figures from INEI's 2001 survey showed the poverty line for Lima at \$75 (260 soles) a month per person, compared to \$43 (147 soles) for the rural jungle. According to some estimates, as much as half the work force earned the minimum wage or below,

because such a great proportion worked in the informal sector, which was largely unregulated. The Ministry of Labor was responsible for enforcing the minimum wage.

A 2001 law increased the Labor Ministry's ability to enforce compliance with laws requiring businesses to pay social security and other benefits.

The Constitution provides for a 48-hour workweek, a weekly day of rest, and an annual vacation. In addition, it prohibits discrimination in the workplace, although discrimination continued to be a problem in practice. A Supreme Decree states that all workers should work no more than 8 hours per day; however, labor advocates complained in recent years that workers were pressured to work longer hours to avoid dismissal. In February President Toledo signed into law a bill that requires companies to pay overtime to employees who work more than 8 hours, to provide additional compensation for work at night, and to provide a 45-minute meal break to employees during their 8-hour shift. Labor, business, and the Government reported that the majority of companies in the formal sector were complying with the new law.

While occupational health and safety standards exist, the Government lacked the resources to monitor firms or enforce compliance. Labor advocates continued to argue that the Government dedicated insufficient resources to enforce existing legislation. In September 2001, the Minister of Labor announced that 80 percent of the companies inspected were found to be in compliance with labor laws. The compliance estimate remained consistent throughout the year. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases. When firms were found to be in violation of the law, the Government sanctioned them with fines or, in some cases, closure. In cases of industrial accidents, the level of compensation awarded to the injured employee usually was determined by agreement between the employer and the individual involved. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.

f. Trafficking in Persons

A 1999 law prohibits trafficking in persons and alien smuggling, which is defined as promoting, executing, or assisting in the illegal entry or exit of persons from the country. Laws prohibiting kidnapping, sexual abuse of minors, and illegal employment were enforced and could also be used to sanction traffickers in persons. There were no programs to educate vulnerable groups about the dangers of trafficking or to assist victims.

While there were no other reports of trafficking in persons, child prostitution was a problem (see Section 5).

There were two reports in 2001 that persons were trafficked from the country. Early that year, three women in their twenties were forced into prostitution in Korea after they were ostensibly hired as domestic workers. In May 2001, a Peruvian intermediary contracted three men to work as mechanics in Abu Dhabi. The men alleged that once they arrived in Abu Dhabi, their employer took away their passports and never paid them for work performed over several months. With assistance from a foreign consulate in Abu Dhabi and an NGO, the men were repatriated in October 2001.